

ORIGINAL

Before the

**FEDERAL COMMUNICATIONS COMMISSION**

Washington, D.C. 20554

In the Matter of )

Advanced Television Systems and )  
Their Impact Upon the Existing )  
Television Broadcast Service )

MM DOCKET NO. 87-268

TO: The Commission

DOCKET FILE COPY ORIGINAL

**COMMENTS OF PASO DEL NORTE BROADCASTING CORPORATION**

Paso del Norte Broadcasting Corporation ("Paso del Norte"), by its counsel, submits the following comments relating to the Sixth Further Notice of Proposed Rulemaking In the Matter of Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service, MM Docket No. 87-268, 61 Fed. Reg. 43209 (August 14, 1996).<sup>1</sup>

1. Paso del Norte is the licensee of KINT-TV, Channel 26, serving El Paso, Texas, and the surrounding communities. El Paso is located across the Rio Grande River from Ciudad Juarez, Mexico. (See copy of map included as Attachment A.) KINT-TV delivers Spanish language programming to El Paso and Ciudad Juarez, and it derives its revenue from viewers in Ciudad Juarez and the Hispanic population of El Paso.

2. Paso del Norte is a strong, independent station which serves a community hungry for Spanish language programming. Market research shows that in El Paso approximately 87% of Hispanics speak Spanish at home at least half of the time; 59% speak it all the time. Paso del Norte

---

<sup>1</sup>The original deadline for filing comments in this matter was November 22, 1996. The Commission, by its Order Extending Time for Filing Reply Comments, released November 20, 1996, permitted parties to file comments within a reasonable time after November 22, 1996. These Comments are submitted as of November 27, 1996, merely three business days following the original deadline, and therefore should be considered timely.

provides quality Spanish language television, and its weekday programming has been in the top three in El Paso for every demographic category. Overall it ranks ahead of NBC, CBS, ABC, and Fox programming in the market. Yet despite its strength, it may be destroyed if it is compelled to broadcast digitally before broadcasters in Mexico make the same change.

3. Under the Commission's current plan for the transition to Digital Television (DTV) broadcasts from National Television System Committee ("NTSC") signals, the Commission plans to establish a period during which broadcasters will deliver both DTV and NTSC signals. At the end of that phase, broadcasters will return one channel, keeping the other for broadcast in a DTV format.

4. Paso del Norte submits that in adopting rules for this transition, the Commission must consider the devastating effect that its DTV policies can have on licensees serving communities in and adjacent to a foreign country. Border stations stand in a unique position among domestic licensees. Many viewers of such stations reside in foreign countries and thus may tune in to their home country's programming, and even the stations' domestic audiences also watch the programming of foreign broadcasters. Consequently, the primary competition for these stations often consists of foreign stations who are not required to adhere to DTV requirements. Paso del Norte and others like it will suffer crippling economic losses if the Commission compels them to transmit programming digitally before foreign broadcasters are compelled to do the same by their own governments.

5. Under the current scenario, Paso del Norte will broadcast digitally while Mexican broadcasters continue to deliver analog signals. With Mexican programming still available -- some of it identical to what Paso del Norte now broadcasts -- residents of Ciudad Juarez will have little incentive to purchase the expensive equipment necessary to receive the digital signals of KINT-TV.

Without a doubt, Paso del Norte will lose its substantial Mexican audience, and, with it, a significant source of its revenue.

6. The Hispanic population of El Paso is approximately 600,000 and the population of Ciudad Juarez is 1.8 million. Clearly, the residents of Ciudad Juarez form the majority of Paso del Norte's target audience. If Mexican viewers, who have the opportunity to receive analog programming from Mexican broadcasters, do not purchase digital equipment and thus cannot tune in to KINT-TV, Paso del Norte cannot survive. This would be true even if all of Paso del Norte's current El Paso audience were to buy the equipment and continue to watch KINT-TV.

7. Moreover, with Mexican programming available via analog transmissions, the Spanish-speaking population of the El Paso area is unlikely to purchase DTV equipment, especially in light of its low disposable income. On average, Hispanics in the area have an annual income of approximately \$24,000 per household, more than 17% *less* than the average non-Hispanic income. In addition, 53% of the Hispanic households in El Paso have incomes below \$20,000 per year. Paso del Norte estimates that roughly 50% of its current domestic audience will not make the switch to DTV while similar analog programming is transmitted by foreign broadcasters.

8. Consequently, KINT-TV and similarly situated border stations have unique problems which are not solved by the Commission's current options. Unless these issues are considered and resolved sufficiently, Paso del Norte and other broadcasters like it will suffer crippling economic harm and their stations may have no choice but to go dark.

9. Paso del Norte therefore urges that the Commission adopt a rule to the following effect: Border stations are permitted to continue their current NTSC broadcasts on their present channels until their neighboring country puts into effect DTV requirements for its own broadcasters.

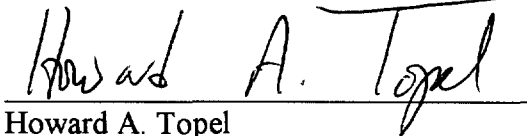
Such a provision would allow most United States stations to shift to DTV, unaffected by the border stations' situation, while providing border stations with a means by which they can maintain their audiences.

10. As an alternative, border stations should be permitted to continue their NTSC broadcasts on different channels. The Commission's current plan anticipates that at the end of the transition period broadcasters will return their old NTSC channels, resulting in available spectrum that should be put to productive use. If the Commission now determines that it is not technologically feasible to allow border stations to keep their current NTSC channels as suggested in Paragraph 8 above, then a portion of the vacant spectrum should be allotted for their NTSC broadcasts.

11. Paso del Norte welcomes the eventual transition to DTV in the United States, but it fears that the current plan places it and similar broadcasters in peril. Paso del Norte does not wish to delay DTV's arrival on the whole, and it feels that its Comments suggest alternatives by which the Commission can bring DTV to the majority of the nation expeditiously without threatening its own survival.

Respectfully submitted,

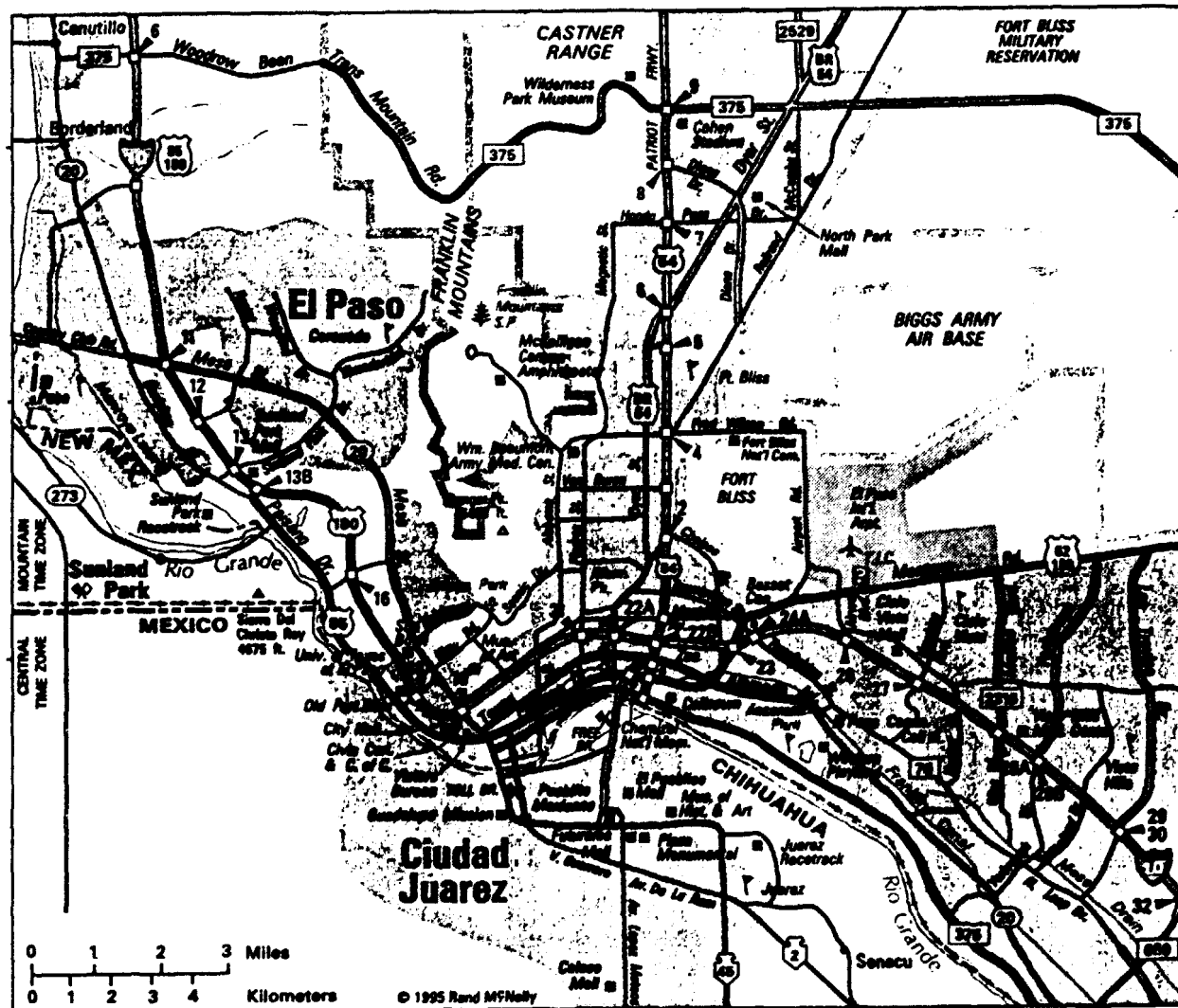
**PASO DEL NORTE BROADCASTING CORPORATION**

By:   
Howard A. Topel

Mullin, Rhyne, Emmons and Topel, P.C.  
1225 Connecticut Ave., N.W.--Suite 300  
Washington, D.C. 20036-2604  
(202) 659-4700

Its Counsel

November 27, 1996



ATTACHMENT A

CERTIFICATE OF SERVICE


I, Joan M. Trepal, a secretary in the law firm of Mullin, Rhyne, Emmons and Topel, hereby certify that on this 27th day of November, 1996, copies of the foregoing "Comments of Paso Del Norte Broadcasting Corporation" were hand delivered to the following:

Honorable Reed E. Hundt, Chairman  
Federal Communications Commission  
1919 M Street, N.W.--Room 814  
Washington, D.C. 20554

Honorable James H. Quello, Commissioner  
Federal Communications Commission  
1919 M Street, N.W.--Room 802  
Washington, D.C. 20554

Honorable Rachelle B. Chong, Commissioner  
Federal Communications Commission  
1919 M Street, N.W.--Room 844  
Washington, D.C. 20554

Honorable Susan Ness, Commissioner  
Federal Communications Commission  
1919 M Street, N.W.--Room 832  
Washington, D.C. 20554

  
Joan M. Trepal